

REMARKS

The Office action dated June 28, 2006, is acknowledged. Claims 1-10 are pending in the instant application. According to the Office action, each of these claims has been rejected. The claims have been amended as set forth above, without adding new matter, to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Reconsideration is respectfully requested in light of the following remarks.

Defective Oath

A new oath is being submitted herewith to overcome the defective oath in the Office action. The Applicant believes the new oath properly states the priority claim.

Rejection of Claims 1-10 under 35 U.S.C. 102(b)

Claims 1-10 have been rejected under 35 U.S.C. 102(b) as being anticipated by Paulett (US 5,935,681). According to the Examiner, the reference teaches each and every feature of the present invention set forth in the aforementioned claims.

The Applicant respectfully disagrees with the Examiner's conclusion and submits that the present invention is patentably distinct from the invention disclosed in the Paulett reference. Moreover, the Applicant maintains the position that each and every feature set forth in the amend claims is not taught or disclosed by the cited reference, and therefore the reference does not anticipate the present invention as set forth in the presently amended claims.

The Applicant respectfully submits that Paulett does not teach that the perforations or holes are only formed in the base layer, as claimed in Applicant's amended claim 1. Paulett teaches a perforation made by a hot pin which creates a hole in the entire laminated product (See Column 3, lines 14- 23). Further, Paulett does not teach that the perforations or holes are made in parallel to each other. Paulett notes in a preferred embodiment that the film should comprise 27 holes per square inch (See Column 3, lines 49-53), but does not indicate the orientation of the holes. Paulett only says that a number of perforations may be formed (See Column 3, lines 49-50). Therefore, the Applicant submits that amended claim 1 is not anticipated by Paulett.

The Applicant believes the Examiner is incorrect in understanding Figures 4 and 5 in combination with column 4, lines 54-67 of Paulett. The Examiner believes that Paulett teaches lamination of additional non-perforated strips between apertures in order to increase strength. The Applicant respectfully disagrees with this view.

The Applicant believes that Paulett teaches the lamination of two layers of stretch film (e.g. a first layer 10 and a second layer 14, Fig. 1) which are both perforated as shown, e.g. in Figure 2 and 3 of Paulett.

Paulett further teaches with regard to Figures 4 and 5 that "tearing is further reduced by refraining from perforating certain strips or sections of film" (column 4, line 54-55). This teaching cannot be understood as applying additional stretch film strips on the two layers 10, 14. Rather, the only way this definition can be understood is that there should be some sections or areas on the layers 10, 14 which are not perforated. These areas/sections may have the form of a "strip."

The “strips” are therefore not real but only virtual. They are indeed part of the layers 10, 14. They are not formed by an additional layer (third layer) of stretch film material.

This understanding is supported by the further description in Paulett, where it is defined: “Other optional portions of non-perforated area 40 are shown. Here again, the non-perforated strips are shown for the purpose of adding strength. Areas 44 are perforated.” (column 4, lines 64-67). It is clearly shown that the non-perforated strips are represented by the non-perforated areas 40. These areas must be part of the layers 10, 14 which are not perforated in these areas. In addition to the non-perforated areas 40 (and 38), areas 44 are provided which are perforated.

Contrary to the stretch film of Paulett which is not perforated, the stretch film according to claim 1 of the present application comprises only one base film material which is perforated. Additional strips are attached to the base film between the rows of holes. These strips are therefore not perforated. It is therefore submitted that claim 1 is new, and therefore not anticipated by Paulett.

Rejection of Claims 1-10 under 35 U.S.C. 103(a)

Claims 1-10 have been rejected as being obvious under 35 U.S.C. 103(a) as being unpatentable over Paulett.

The Examiner’s view with regard to the obviousness of claims 1-10 in view of Paulett is that it would be within the ordinary skill of the art to vary the distance between the strips and holes.

However, in addition to the arguments presented above, present claim 1 of the invention teaches a very particular width of the strip and a particular orientation of holes (i.e. holes arranged in rows along a main direction), with the strips lacking holes are attached to the base between the rows of holes in the main direction.

As mentioned in paragraph [0033] of the present application, this teaching leads to a situation in which: "...edges that are adjacent to the strips 4 are supported by the strips 4 such that the formation of tears can be reliably prevented." Thus, varying the distance between the strips and holes (the orientation) would not be within the ordinary skill of the art. Such a product is neither anticipated by nor obvious in view of Paulett.

The Examiner states that the specific orientation of the strips and the holes "would have been within the ordinary skill of the art to vary the distance between the strips and the holes depending on the degree of reinforcement needed and the specific hole pattern given the broad teaching of the reference that these are effective variables." However, no documentary evidence has been provided to support this statement, and it is respectfully submitted that the foregoing statement is not capable of such instant and unquestionable demonstration as to defy dispute. The burden is upon the Examiner to support the allegation of technical facts by citation to some reference work well recognized as a standard in the pertinent art. MPEP 2144.03(A), citing *In re Ahlert*, 424 F.2d at 1091, 165 USPQ at 420-21. The Applicant specifically points out that placing of strips in the main direction of a base of stretch film having a multitude of rows of parallel holes, which strips are attached to the base between the rows of holes is not common knowledge or well known in the art. It is therefore requested that the Examiner provide the foregoing

citation of the reference work noted above; if no such citation can be made, the Applicant respectfully requests that if the Examiner is relying on personal knowledge to support the finding of what is known in the art, that the Examiner provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding as required in 37 CFR 1.104(d)2.


Conclusion

For the foregoing reasons and absent the material requested above, it is believed that the present application, with the claims in their amended form, is in condition for allowance, and such action is earnestly solicited. The Examiner is invited to call the undersigned if there are any remaining issues to be discussed which could expedite the prosecution of the present application.

Respectfully submitted,

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